REMARKS

In response to an Office Action dated January 23, 2001 in the file of this application, the applicants has responded by the changes made to the claims above and the comments made herein. Based on this submission reconsideration of the merits of this patent application is respectfully requested.

The first grounds of objection contained in the Office Action is with regard to sequence listing. Pursuant to the provisions of 37 C.F.R. §1.821(e), the applicants hereby states that the computer sequence listing for this application is identical to that in the parent case, now US Patent Number 6,127,113. Accordingly, submission of a new sequence in computer readable form is not required herewith.

The Examiner objected to the specification for lack of an abstract. An abstract is submitted herewith to cure that deficiency.

The Examiner objected to Claim 1 because of the recitation of "Ad-36p." The claim has been withdrawn, and hence the rejection is moot. However, the full name of the virus has been used, in place of the abbreviation, in all of the claims as they presently stand.

The Examiner also objected to Claim 2 as being incomplete. It is believed that the changes to Claim 2 have cured this deficiency.

The Examiner also rejected the then pending Claims 2 and 3 under 35 U.S.C. §112, first paragraph, on the grounds that the specification while enabling for adenovirus type 36p was not enabling for other adenovirus. Pursuant to the thinking of this rejection, the applicants have limited all of Claims 2-6 to adenovirus type 36p. Claim 7, directed to a method for screening adenovirus agents, is by definition not so limited. However, it is believed that the method of Claim 7 is clearly enabled by the application as filed. Accordingly, it is believed that this ground of rejection is overcome by the amendments to the claims made above.

The Examiner has imposed an obvious-type double patenting rejection. A Terminal Disclaimer is submitted herewith so as to overcome this rejection.

The Examiner objected to Claim 1 as being anticipated by Wigand et al. That claim has been withdrawn and hence that ground of rejection is overcome.

Claims 2 and 3 were rejected under 35 U.S.C. §102(a) as being anticipated by Dhurandhar et al. Submitted herewith is a Declaration of Richard L. Atkinson, which establishes that the inventorship of the Dhurandhar et al. abstract is the same as this patent application. Accordingly that abstract is not a reference against the claims of this application under 35 U.S.C. §102(a). Note that this application claims priority from a provisional application filed shortly after the publication of the Dhurandhar et al. abstract. It is therefor believed that this rejection is overcome.

Wherefore, based on the foregoing, an early and favorable reconsideration of the merits of this patent application is respectfully requested. A separate petition for extension of time is submitted herewith so that this response will be considered as timely filed.

Respectfully submitted,

Nicholas J. Seay
Reg. No.: 27,386
Attorney for Applicants
QUARLES & BRADY LLP
P.O. Box 2113
Madison, WI 53701-2113
TEX 608/251-5000
FAX 608/251-9166

VERSION WITH MARKINGS TO SHOW CHANGES MADE

Applicants: Richard L. Atkinson
Nikhil V. Dhurandhar

Date: July 23, 2001

Serial No.: 09/619,117

Examiner: A. Salimi

Filed: 07/19/2000

Art Unit: 1648

Title: VIRAL OBESITY METHODS AND COMPOSITIONS

Our Ref: 710395.90010

2. (Amended) A method of determining whether an obese person is suffering from viral obesity [which comprises analyzing] caused by adenovirus type 36p, the method comprising the steps of isolating frm the person a sample selected from the group consisting of a body fluid, feces, a sample of tissue [or] and a sample of an organ from the person and; assaying the sample by an immunoanalytical or nucleic acid probe hybridization method to [ascertain] test for the presence of whether the person has been or is infected with [an] adenovirus [that] type 36p, which causes obesity and reduces cholesterol level in humans.

3. The method according to Claim 2 wherein the substance analyzed is blood.

4. (New) A reagent useful for the detection of virally caused obesity comprising an isolated nucleic acid capable of hybridizing to a nucleic acid from adenovirus type 36p.

5. (New) A method for the detection of virally caused obesity in an obese subject comprising the steps of

isolating a nucleic acid from the body of the subject; and

assaying the isolated nucleic for nucleic acid sequences from adenovirus type 36p.

6. (New) A method for the detection of virally caused obesity in an obese subject comprising the steps of

isolating a sample of biological tissue or fluid from the subject; and

assaying the sample using an immunological probe for the presence of adenovirus type 36p.

7. (New) An immunogenic reagent comprising an immunogenic component selected from the group consisting of live inactivated virus, killed virus, viral coat protein, and a segment of a viral coat protein including an epitope, the virus being adenovirus type 36p.

8. (New) A method of screening adenovirus agents for association with obesity comprising the steps of

screening obese humans for the presence of as adenovirus strain which is more abundant in obese individuals than in non-obese individuals, such a strain being a candidate strain; and

introducing virus of the candidate strain into animals and testing the animals for both obesity and for cholesterol level to identify if the candidate strain results in both obesity and lowered cholesterol level.